

PENINSULA TOWNSHIP

13235 Center Road
Traverse City, Michigan 49686

ROBERT K. MANIGOLD
SUPERVISOR

MONICA A. HOFFMAN
CLERK

DAVID K. WEATHERHOLT
TREASURER

PENELOPE S. ROSI
TRUSTEE

JED J. HEMMING
TRUSTEE

JILL C. BYRON
TRUSTEE

JAMES T. HORTON
TRUSTEE

September 18, 2006

Mrs. Carol Cutler
19963 Center Road
Traverse City, MI 49686

Re: MTT Docket No. 304137
Homeowner's Principal Residence Exemption Appeal
Property ID No. 28-11-227-001-20

Dear Carol,

We recently had discussion regarding your recent Michigan Tax Tribunal appeal. Due to the fact that a portion of the home was dedicated to Bed and Breakfast use, the property is not entitled to the full 18 Mill exemption from Some School Operating Tax. In determining the appropriate exemption percentage, the Peninsula Township assessing office utilized the Guidelines for the Michigan Homeowner's Principal Residence Exemption Program, published by the Michigan Department of Treasury, revised August 2004, in conjunction with the Special Use Permit on file at the Township (for Bed and Breakfast operation).

In reviewing the Department of Treasury's Guidelines, we were drawn to several pertinent sections, namely:

Chapter 5, Question 1: I live in part of my home and operate a business in another part. May I claim an exemption?

Yes, you may claim a partial exemption even if the property is classified Commercial, but only on the portion that is owned and occupied as your principal residence.

Chapter 5, Question 10: I operate a bed and breakfast. May I claim an exemption?

Yes, but only for the portion of the property that is used as your principal residence.

Chapter 5, Question 11: I own a bed and breakfast. May I receive a 50% Exemption if I occupy 50% of the square footage as my principal residence?



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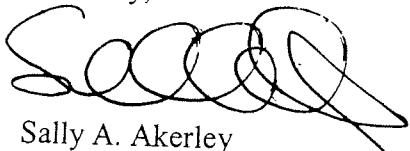
Yes, if you use part of your principal residence for commercial purposes like a bed and breakfast or an adult foster care home, you may claim an exemption on the percentage of the home you occupy as your principal residence.

These examples seemed to consistently demonstrate the methodology one should use in determining a partial exemption percentage. In essence, and in my interpretation, an owner of a bed and breakfast establishment is willing, at any point in time, to forfeit the use of some residential space in order to generate income. The township based its percentage calculation on those areas in which guests are afforded *predominant and exclusive use*.

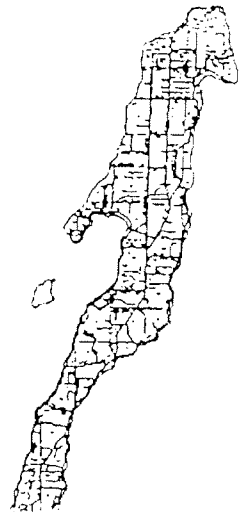
The Michigan Tax Tribunal upheld the township's percentage calculation, citing the above referenced Chapter 5, Question 10 and also MCL 211.7dd which states, in part, "Homestead means that portion of a dwelling or unit in a multiple-unit dwelling that is subject to ad valorem taxes and is owned and occupied as a principal residence by an owner of the dwelling or unit."

In conclusion, our unit will continue to base our calculations accordingly, relying upon the Michigan Tax Tribunal's decision as a justification for our method.

Sincerely,



Sally A. Akerley
Peninsula Township Assessor



Page 1.	Personal Statement
Page 2.	Bed and Breakfast, Description of Business
Page 3.	Excerpt of State Construction Code (Act 230 of 1972)
Page 4.	Staff Report, Bed and Breakfast
Page 5.	Whitewater Township Special Use Permit
Page 6.	Whitewater Township Land Use Permit Application
Page 7.	Notice of Denial of Homeowner's Principal Residence Exemption
Page 8.	Certificate of Occupancy
Page 9.	Summer Tax Bill 2005 (initial tax bill)
Page 10.	Official Summer Tax Receipt, Whitewater Township (09/16/2005)
Page 11.	Summer Tax Bill 2005 (Revised 8/12/2005)
Page 12-19	Memorandum 8/24/2005, Subject: Additional Exemption Info
Page 20-24	Copy of e-mail from Eric Johnson, Whitewater Township Assessor to Natalie Dunn, DunnN@michigan.gov (question)
Page 25-26	Copy of e-mail from Natalie Dunn to Eric Johnson (answer)
Page 27.	Floor plan and explanation of designated business space
Page 28.	Chart with square footage designated to business. Additional explanation of Personal usage.
Page 29.	Comparable Bed and Breakfast Statistics
Page 30-34	IRS Form 8829 Expenses for Business Use of Your Home (Includes Instructions.) Note sticky note from Eric.
Page 35.	E-mail from Manning Tax Service to Judy York confirming questions and Tax information in original message.
Page 36.	Final Statement.

A bed and breakfast is defined by law as a private residence that offers accommodations to lodgers in 14 or fewer rooms for rent in the innkeeper's residence in which the innkeeper resides while renting the rooms to lodgers, and serves breakfast at no extra cost to it's lodgers.

Michigan is our permanent home. It is the place that we intend to return to whenever we go away. 5721 N. Broomhead Rd is our principal residence. It's where we're registered to vote, the address on our driver's licenses and the address from which we file our income tax return. It is a single family dwelling with an attached garage that we own and occupy and for which we have a homestead exemption.

We have followed all of the rules and regulations and stipulations to open a Bed and Breakfast. Land Use Permit #02-43 was issued 7/15/02 after review by the Township Board and Planning Commission. Special Use Permit 02-BB-01 was issued 7/2002 after a Public Hearing on 7/10/2002. The Zoning Administrator Rob Larrea signed the Special Use Permit. Mr. Larrea's signature signifies that zoning requirements were reviewed and considered met.

The zoning administrator has resolved the zoning issue of separate residences in that the Special Use Permit was issued based on zoning regulations, which support the legal definition of a bed and breakfast.

We have a lovely home with an attached garage. We view how it came to be as irrelevant. We live in and use the entire home and are allowed by a special use permit to rent three bedrooms to lodgers and include the cost of breakfast in the room rental.

We received our certificate of occupancy on 2/14/2005. From our understanding the effective date of any homestead versus non-homestead change should take effect on 12/31 for the following tax year. The assessor was not aware of the certificate of occupancy and once made aware, agreed with that interpretation.

Manning Tax Service will be doing our taxes. The township assessor has indicated that he will stipulate to the percentage used on IRS Form 8829 line number 3. Although we cannot find any legal base that supports that usage it seems like a reasonable resolution, its in line with the comps on other B&B's that I've given you and is recognized as "right and acceptable" by Manning Tax Service. (see attached e-mail)

Bed and Breakfast

Description Of Business:

A bed and breakfast is defined by law as a private residence that offers sleeping accommodations to lodgers in 14 or fewer rooms for rent in the innkeeper's residence in which the innkeeper resides while renting the rooms to lodgers, and serves breakfast at no extra cost to its lodgers.

Required State License(s):

No state license is required if only continental breakfast is served.

If the bed and breakfast has 8 or fewer rooms (including owner and family rooms), a full breakfast can be served without a food service license as long as it is a packaged deal.

A bed and breakfast that has 9 or more rooms should be licensed with the County health Department, when serving a full breakfast.

Use tax should be charged on room rentals.

You may call the Michigan Department of Treasury at (517) 636-4660 or visit the [Treasury Business Tax Self Service](#) for more information.

Further Information:

Good insurance is highly recommended.

Revised: 4/2005

Copyright © 2005 State of Michigan

STILLE-DEROSSETT-HALE SINGLE STATE CONSTRUCTION CODE ACT (EXCERPT)
Act 230 of 1972

125.1504b Bed and breakfast.

Sec. 4b. (1) A bed and breakfast is considered under the code to be a single family residential structure and shall not be treated as a hotel or other facility serving transient tenants. This section is effective throughout the state without local modification, notwithstanding the exemption provisions of section 8.

(2) This section does not affect local zoning, fire safety, or housing regulations.

(3) As used in this section, "bed and breakfast" means a single family residential structure that meets all of the following criteria:

(a) Has 10 or fewer sleeping rooms, including sleeping rooms occupied by the innkeeper, 1 or more of which are available for rent to transient tenants.

(b) Serves meals at no extra cost to its transient tenants.

(c) Has a smoke detector in proper working order in each sleeping room and a fire extinguisher in proper working order on each floor.

History: Add. 1987, Act 112, Imd. Eff. July 13, 1987;—Am. 1996, Act 292, Imd. Eff. June 19, 1996.

Popular name: Act 230

Popular name: Uniform Construction Code

**Staff Report
Bed and Breakfast
06/27/02**

Project Name:	Bed and Breakfast
Parcel Number:	28-13-003-011-05
Owner Name:	John and Judy York
Owner/Project Address:	5721 N. Broomhead Rd.
Current Use:	Garage with Apt. Above
Request:	Approval of Special Use Permit for Bed and Breakfast

Bed and Breakfast

Permit Number/File: 02-BB-01

Zoning & Existing Use: The property is currently zoned A-1 Ag. and the current use is residential.

Watershed: Elk Lake.

Adjacent Zoning & Existing Uses:

North: Commercial

South: Agriculture

East: Agriculture

West: Agriculture

Report:

All requirements for SPR and SUP in the Zoning Ordinance have been met as well as additional conditions for Bed and Breakfast.

John and Judy York's Bed and Breakfast fits into the community goals of the township Master Plan by recognizing that the Township's attractive rural environment is its most important economic asset. They will be targeting tourism, which will bring more people into the township and provide a place for them to stay, something the township has lacked in the past. They will be located moments from the recreational opportunities of Sand Lakes Quiet area that provides scenic enjoyment, and wildlife habitat. This could provide an important opportunity for tourism in the township that will help the local economy and provide opportunity for the residents and businesses of Whitewater. The location will provide for easy access from M-72 yet not cause any problems with excessive traffic due to the size. They will also be moving a historical house into the community to keep the small town feel of Whitewater and have had extensive landscape work to the property in an effort to provide the best setting possible.

WHITEWATER TOWNSHIP SPECIAL USE PERMIT 02-BB-01

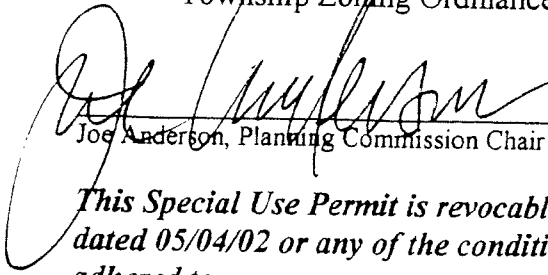
Property Address: 5721 Broomhead Road	Public Hearing Date: 07/10/02
Parcel Number: 28-13-003-011-05	Special Use Permit: Bed & Breakfast
Owner: John & Judy York	Site Plan Date: 05/04/02

Motion was approved to grant the Special Use Permit, 02-BB-01 for John & Judy York, for the following reasons:

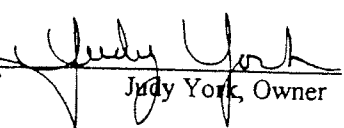
1. Lot complies with the minimum 1 acre required (York's lot is 1.83 acres)
2. Site plan complies with the parking of one-space per sleeping room (three per site plan)
3. No other B&B is within 1500 feet
4. House contains two exits per site plan
5. Each room for rental purposes has minimum of 100 square feet
 - a. Room #1 = 143 square feet (approx)
 - b. Room #2 = 143 square feet (approx)
 - c. Room #3 = 217 square feet (approx)
6. Planning Commission (PC) does not think there will be excess noise
7. PC does not feel that the essential character in terms of excessive traffic, appearance or general character will be altered due to the approval of the B & B.

The following conditions are placed on the Special Use Permit (02-BB-01):

1. Sign must comply with Section 25.20 A(2)c. – Sign can not exceed 4 square feet and must be set 15' off the road right-of-way (sign permit is required in addition to Special Use Permit & Land Use Permit)
2. Bed & Breakfast must be owner occupied at all times
3. No more than 3 sleeping rooms
4. Not more than eight (8) overnight guests at anytime
5. A guest registry shall be kept, and available for inspection by the Zoning Administrator
6. Guests shall not exceed seven (7) days within any thirty (30) day period
7. Rental of any type of recreational vehicles are prohibited.
8. Proof of Well & Septic by the GTC Heath Dept must be submitted to Zoning Administrator prior to issuance of the land use permit
9. If trespass occurs on adjacent properties, a fence shall be required to be installed or the Special Use Permit may be revoked.
10. Lighting must conform to Article 29, Exterior Lighting Standards of the Whitewater Township Zoning Ordinance.


Joe Anderson, Planning Commission Chair


John York, Owner


Judy York, Owner

This Special Use Permit is revocable by the Planning Commission, if the approved site plan dated 05/04/02 or any of the conditions of the Special Use Permit or Zoning Ordinance are not adhered to.

WHITEWATER TOWNSHIP LAND USE PERMIT APPLICATION

OWNER:	AGENT:
Name: <u>John & Judy York</u>	Name: _____
Street: <u>5721 N. Broomhead</u>	Street: _____
City: <u>Williamsburg</u>	City: _____
Telephone/Fax: <u>231-267-5471</u>	Telephone/Fax: _____

Tax ID # 28-13- 003 - 011 - 05 Flood Zone _____

Subdivision: _____ Condo _____ Lot No. _____

Property Address: 5721 N. Broomhead

Land Division Application #: _____ Date Approved: _____

Health Dep't Permit #: 29306 Date Issued: _____

Soil Erosion Permit #: _____ Date Issued: _____

Driveway Permit #: NA Emergency Vehicle Clearance: _____

Property Ownership: Deed _____ Tax Record _____ Land Contract _____

TYPE OF IMPROVEMENT, BUILDING OR USE:

Single Family _____ Multiplex _____ Garage _____ Addition _____ Remodel _____

Commercial _____ Accessory Building _____ Other Bed & Breakfast

DESCRIPTION (Size): 3500 sq. ft. (not including current dwelling)

Number of Bedrooms 3 Number of Bathrooms 2 1/2 Site Plan Submitted 7-15-2002

THE APPLICANT SWEARS THE DRAWING AND INFORMATION HERewith SUBMITTED ARE TRUE AND CORRECT AS HE IS INFORMED OR BELIEVES.

SIGNATURE - OWNER: Judy York AGENT _____

LAND USE PERMIT ARE VALID FOR ONE (1) YEAR

***** OFFICE USE ONLY *****

Date: 7-15-02 Approved X Denied _____ Referred to: ZBA _____

Township Board: X

Planning Commission: X

Land Division: _____

FEE Tendered: 60.00 Check: 2557 No. X Cash: _____

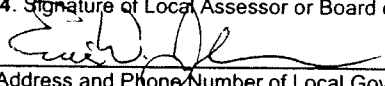
Zoning Administrator: [Signature] Date: 7-15-02

Notice of Denial of Homeowner's Principal Residence Exemption

Issued under authority of Public Act 267 of 1994.

With this notice, you are notified that the *Principal Residence Exemption* you filed on the property identified below has been denied. If you have questions about the denial, you may contact your local government or follow the appeal procedures specified below.

Property Information Type or print legibly. Use a separate form for each property number.		
▶ 1. Property Tax Identification Number 28-13-003-011-05		▶ 2. Zip Code 49690
▶ 3. Street Address of Property 5721 N. Broomhead Rd.	4. Name of Township or City <input checked="" type="checkbox"/> Township Whitewater <input type="checkbox"/> City	5. County Gr. Traverse
▶ 6. Name of Owner (First, Middle, Last) John W York		▶ 7. Owner's Social Security Number
▶ 8. Name of Co-Owner (First, Middle, Last) Judy A. York		▶ 9. Co-Owner's Social Security Number
10. Mailing address if different than property address (street or RR#, city, state, Zip Code)		
▶ 11. Your exemption was denied/adjusted for the following reason: <input type="checkbox"/> a. The owner is not a Michigan resident. <input type="checkbox"/> b. The property claimed is not the owner's principal residence. <input type="checkbox"/> c. The person claiming the exemption is not the owner. <input checked="" type="checkbox"/> d. Other: <u>22% of this property is classified as the owners Principal residence the remaining 78 % is a bed and breakfast. This denial adjusts the exemption from 100 % to 22% for the 2005 tax year.</u>		
▶ 12. Claim Denied for Calendar Year(s): (see instructions) 2005		▶ 13. Percentage Adjusted to: 22.00 %

Certification		
▶ 14. Signature of Local Assessor or Board of Review 	<input checked="" type="checkbox"/> Assessor <input type="checkbox"/> Board of Review	Date 8/12/2005
15. Address and Phone Number of Local Government P.O. Box 5431, Traverse City, MI. 49696		Phone 231-947-4007

Homeowner's Right to Appeal
If you disagree with this denial, you may request an appeal. Explain your reasons in writing within 35 days of the date of this notice. Attach a copy of this notice and send to: Residential Small Claims Division Michigan Tax Tribunal P.O. Box 30232 Lansing, MI 48909

**CONSTRUCTION CODE
2650 LAFRANIER ROAD
TRAVERSE CITY, MI 49686
(231) 995-6044**

Count # 27616
Process Date 7/22/200
As of 10/1/200

SITE

5721 H HOPKINS RD
WILLIAMSBURG HI

10699

Suey Fork

Page 8 of 10

PROPERTY #: 23-23-000-01-00

Description:

CONSTRUCT 1864 SQ FT UNFINISHED BASEMENT & MOVING EXISTING RESIDENCE
SUGO BASEMENT & CONSTRUCT 1269 SQ FT ADDITION PLUS A PORCH & DECK

FOIA b(5); DPP

DOCA Group: 58

Proposed Title: 09 RES (U)-ACB

Area (SF): 1339 Estimated Cost: \$114,023 Permit Fee: \$71

3. Materials

Bahadur Hussain

APPLICANT

ALAN JOHN & JUDY
5721 N BROOMHEAD RD
CHICAGO, ILL 60630

49594

OWNER

YORK, JOHN & SONS
5721 N BRIMFIELD RD
WILLOWBURD AL 36690

To be filled in by each division indicated hereon upon completion of its final inspection.

TYPE

PERMIT #

APPROVED

DATE _____

REMARKS

BUILDING

PERMIT #
B-27646

APPROVED
Bruce R. Rensai

DATE
2-14-05

PLUMBING

P 6192

JACK O'ROCK

2/9/05

ELECTRICAL

E 9679

MARY RUSSELL

2/10/05

MECHANICAL

M 11732

KEVIN PEABODY

7/9/04

M 14607

KEN CORWID

27/05

8

SUMMER TAX BILL 2005**WHITEWATER TOWNSHIP**

www.whitewatertownship.org

TAX & 1% ADMIN FEE DUE JULY 1 THRU SEPT. 14, 2005.
 PAYABLE TO WHITEWATER TOWNSHIP P.O. BOX 100
 1% INTEREST ADDED SEPT. 15, 2005 AND THE FIRST OF
 EACH MONTH FOLLOWING ON UNPAID BALANCES.
 A 3% PENALTY WILL BE ADDED FEB. 15, 2006
 CHECK MUST CLEAR OR RECEIPT IS VOID.
 231-267-5141 EXT 22

DUE DATE: 09/14/2005Mort Code: 00C12
COUNTRYWIDE TAX SERVICE C

A COPY OF THIS BILL HAS BEEN SENT TO MORTGAGE PROVIDER

TAXING UNIT	MILLS	TAX
SCHOOL DEBT	2.52000	473.50
SCHOOL OPER. TAX	18.00000	EXEMPT
STATE EDUC. TAX	6.00000	1,127.40
TBA/ISD TAX	2.95890	555.97
COLLEGE OPER 50%	1.10640	207.89
COLLEGE DEBT 50%	0.36500	68.58
GT COUNTY 33.33%	1.69380	318.26
Tax Due		2,751.60
Admin Fee		27.51
Amount Due ----->		2,779.11

Taxable Value:	187,900
SEV Value:	190,340
School:	Elk Rapids Schools
Class:	401
-----FISCAL YEARS-----	
County:	01/01/03 - 12/31/03
Township:	04/01/03 - 03/31/04
School:	07/01/03 - 06/30/04
PROPERTY DESCRIPTION:	
PT SE 1/4 OF FRAC NW 1/4 SEC 3 T27N R9W	
COMM W 1/4 CRN TH N 89 DEG 59'28" E 2319.79'	
TH N 0 DEG 3'39" W 1063.22' TO POB. TH CONT N 0	
DEG 3'39" W 265.81' TH N 89 DEG 52'22" E 300' TH S	
0 DEG 3'39" E 265.92' TH S 89 DEG 53'41" W 300' TO	
POB. SUBJ TO ROW 33' BROOMHEAD RD. AKA	
PARCEL A-5	
5721 N BROOMHEAD RD	

% Declared as Principle Residence Exemption (P.R.E.): 100
 P.R.E. Exemption Has Reduced This Bill By: 3382.20

28-13-003-011-05

NOT RESPONSIBLE IF PAID ON WRONG DESCRIPTION. FAILURE TO SEND OR RECEIVE A TAX NOTICE

Cut along dotted line and return bottom portion with your payment

Payable to:
 WHITEWATER TOWNSHIP
 ANN COUTURIER, TREASURER
 PO BOX 100
 WILLIAMSBURG, MI 49690

AMOUNT DUE 2,779.11

231-267-5141 ext 22

DUE DATE: 09/14/2005

100

AFTER THE DUE DATE, PLEASE CALL TO VERIFY AMOUNT OWING
SUMMER BILL INTEREST BEGINS SEPT. 15TH, 3% PENALTY ADDED FEB. 15TH

28-13-003-011-05

To: YORK JUDY A & JOHN W
 5721 N BROOMHEAD RD
 WILLIAMSBURG MI 49690

Total Enclosed: _____

Print Date: 09/16/2005
Recpt Date: 09/16/2005

2005
Official Summer Tax Receipt
WHITEWATER TOWNSHIP
28-13-003-011-05

Recpt No: 00001604

WHITEWATER TOWNSHIP
ANN COUTURIER, TREASURER
PO BOX 100
WILLIAMSBURG, MI 49690

Received of:
YORK JUDY A & JOHN W
5721 N BROOMHEAD RD
WILLIAMSBURG MI 49690

TAXABLE: 187.900, SEV: 190.340, SCHL: 05060 (COUNTRYWIDE TAX SERVICE CORP.)
P.R.E.: 22.0000 CLASS: 401

Date	Chk #	Amount	Date	Chk #	Amount
------	-------	--------	------	-------	--------

** CURRENT PAYMENT **

Date	Chk #	Amount
09/16/2005	C12-3676599	2,779.11

Total Recvd 2,779.11

DETAILED BREAKDOWN OF BILLING/PAYMENTS FOR 28-13-003-011-05

Heading	Mills	Tax Billed	Total Paid	Balance
SCHOOL DEBT	2.52000	473.50	473.50	0.00
SCHOOL OPER. TAX	18.00000	2,638.11	0.00	2,638.11
STATE EDUC. TAX	6.00000	1,127.40	1,127.40	0.00
TBA/ISD TAX	2.95890	555.97	555.97	0.00
COLLEGE OPER 50%	1.10640	207.89	207.89	0.00
COLLEGE DEBT 50%	0.36500	68.58	68.58	0.00
GT COUNTY 33.33%	1.69380	318.26	318.26	0.00
Admin Fee		53.89	27.51	26.38
Interest/Pen		0.00	0.00	0.00
Over Payments		0.00	0.00	0.00
Totals----->	32.64410	5,443.60	2,779.11	2,664.49

Property Description:
PT SE 1/4 OF FRAC NW 1/4 SEC 3 T27N
R9W COMM W 1/4 CRN TH N 89 DEG
59'28" E 2319.79' TH N 0 DEG 3'39"
W 1063.22' TO POB. TH CONT N 0 DEG
BALANCE OF DESCRIPTION ON FILE-----

To: YORK JUDY A & JOHN W
5721 N BROOMHEAD RD
WILLIAMSBURG MI 49690

Addr: 5721 N BROOMHEAD RD
I HEREBY CERTIFY THAT APPLICATION
WAS MADE TO PAY ALL TAXES, SPECIAL
ASSESSMENTS AND SURCHARGES, DUE AND
PAYABLE AT THIS OFFICE ON THE
DESCRIPTION SHOWN IN THIS RECEIPT
EXCEPT THOSE AMOUNTS SHOWN IN THE
'BALANCE' COLUMN ABOVE.

TREASURER

Cashier: ANN

SUMMER TAX BILL 2005

WHITEWATER TOWNSHIP

www.whitewatertownship.org

TAX & 1% ADMIN FEE DUE JULY 1 THRU SEPT. 14, 2005.
PAYABLE TO WHITEWATER TOWNSHIP P.O. BOX 100
1% INTEREST ADDED SEPT. 15, 2005 AND THE FIRST OF
EACH MONTH FOLLOWING ON UNPAID BALANCES.
A 3% PENALTY WILL BE ADDED FEB. 15, 2006
CHECK MUST CLEAR OR RECEIPT IS VOID.
231-267-5141 EXT 22

DUE DATE: 09/14/2005

Mort Code: 00C12
COUNTRYWIDE TAX SERVICE C

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O MORTGAGE PROVIDER

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COLLEGE OPER 50%	1.10640	207.89
COLLEGE DEBT 50%	0.36500	68.58
GT COUNTY 33.33%	1.69380	318.26
1-517-6264-000		
Tax Due		5,389.71
Admin Fee		53.89
Amount Due ----->		5,443.60

Taxable Value:	187,900
SEV Value:	190,340
School:	Elk Rapids Schools
Class:	401
-----FISCAL YEARS-----	
State:	10/01/05 - 09/30/06
County:	01/01/06 - 12/31/06
Township:	04/01/06 - 03/31/07
School:	07/01/05 - 06/30/06
PROPERTY DESCRIPTION:	
PT SE 1/4 OF FRAC NW 1/4 SEC 3 T27N R9W COMM W 1/4 CRN TH N 89 DEG 59'28" E 2319.79' TH N 0 DEG 3'39" W 1063.22' TO POB. TH CONT N 0 DEG 3'39" W 265.81' TH N 89 DEG 52'22" E 300' TH S 0 DEG 3'39" E 265.92' TH S 89 DEG 53'41" W 300' TO POB. SUBJ TO ROW 33' BROOMHEAD RD. AKA PARCEL A-5 5721 N BROOMHEAD RD	

% Declared as Principle Residence Exemption (P.R.E.): 22.0000
P.R.E. Exemption Has Reduced This Bill By: 744.08

28-13-003-011-05

NOT RESPONSIBLE IF PAID ON WRONG DESCRIPTION. FAILURE TO SEND OR RECEIVE A TAX NOTICE SHALL NOT IN ANY WAY PREJUDICE THE RIGHT TO COLLECT OR ENFORCE THE PAYMENT OF ANY TAX.

Cut along dotted line and return bottom portion with your payment

Payable to:
WHITEWATER TOWNSHIP
ANN COUTURIER, TREASURER
PO BOX 100
WILLIAMSBURG, MI 49690

231-267-5141 ext 22

AMOUNT DUE 5,443.60

DUE DATE: 09/14/2005

**AFTER THE DUE DATE, PLEASE CALL TO VERIFY AMOUNT OWING
SUMMER BILL INTEREST BEGINS SEPT. 15TH, 3% PENALTY ADDED FEB. 15TH**

22.0000

28-13-003-011-05

To: YORK JUDY A & JOHN W
5721 N BROOMHEAD RD
WILLIAMSBURG MI 49690

Total Enclosed: _____

5

11

MEMORANDUM

TO: JUDY YORK
FROM: ERIC W. JOHNSON
SUBJECT: ADDITIONAL EXEMPTION INFO
DATE: 08/24/2005
CC:

Here is some additional information on the Rescinds and Denials.

Request to Rescind Homeowner's Principal Residence Exemption

Issued under authority of Public Act 267 of 1994.

This form must be filed with the assessor for the city or township where the property is located.

Print or type in blue or black ink. Use a separate form for each property number.

Property Information			
▶ 1. Property Tax Identification Number 28-13-003-011-00		▶ 2. ZIP Code 49690	
▶ 3. Street Address of Property 5721 Broomhead Rd.2	▶ 4. Name of Township or City <input checked="" type="checkbox"/> Township Whitewater <input type="checkbox"/> City		▶ 5. County Gr. Traverse
▶ 6. Name of Owner (First, Middle, Last)		▶ 7. Owner's Social Security Number	
▶ 8. Name of Co-Owner (First, Middle, Last)		▶ 9. Co-Owner's Social Security Number	

10. Property owner's daytime phone number _____

11. I am rescinding this property because (check appropriate box(es) below):	
a. I am no longer the owner of the property.	11a. <input type="checkbox"/>
b. I own the property, but I no longer occupy the property as my principal residence.	11b. <input type="checkbox"/>
c. I have converted the property to rental property.	11c. <input type="checkbox"/>
d. I have converted the property to commercial property.	11d. <input type="checkbox"/>
12. If the portion of the property in line 1 that you own and occupy as your principal residence has changed, enter the new percentage here <u>Inaccurate</u> 22.00 %	
13. Effective date of the change listed in either 11 or 12 _____	▶ 13. 2/14/2005 Month Day Year
14. This rescission applies to:	
a. Owner and Co-owner as listed in boxes 6 and 8 above.	14a. <input type="checkbox"/>
b. Owner only, as listed in box 6 above.	14b. <input type="checkbox"/>
c. Co-owner only, as listed in box 8 above.	14c. <input type="checkbox"/>
15a. New Owner's Name	15b. New Co-Owner's Name

Certification			
I certify under penalty of perjury the information contained on this document is true and correct to the best of my knowledge.			
16. Owner's Signature		Date	
17. Co-Owner's Signature		Date	
18. Mailing Address, if Different than Property Address Above			
19. Closing Agent or Preparer's Name and Mailing Address			

Local Government Use Only -- Do Not Write Below This Line	
What is the first year this change will be posted to the tax roll?	▶ 20. <u>2006</u>
Indicate property classification	21. <u>401</u>

Instructions for Form 2602, Request to Rescind Homeowners Principal Residence Exemption

General Instructions

This form enables people who are selling or converting their home to another use to rescind their exemption. It also enables people to change the percentage that they occupy as their principal residence.

Interest and Penalty. If it is determined that you claimed property that is not your principal residence, you may be subject to the additional tax plus penalty and interest as determined under the Property Tax Act.

Line-by-Line Instructions

Lines not listed here are explained on the form.

Property Information

Line 1. Property is identified with a property tax identification number. This number will be found on your tax bill and on your property tax assessment notice. Enter this number in the space indicated. If you cannot find this number, call your township or city assessor. **Submit a separate Form 2602 for each exemption being rescinded.** Your property number is vital; without it, your township or city cannot adjust your property taxes accurately.

Lines 2-5. Enter the complete property address of the exemption you are rescinding. Check the appropriate box for the city or township. If you live in a village, list the township in which the principal residence is located.

Lines 6-10. Enter the name, Social Security Number(s) and daytime telephone number of the legal owner(s). Do not include information for a co-owner who does not occupy the principal residence.

Note: The request for the Social Security Number is authorized under section 42 USC 405 (c) (2) (C) (i). It is used by the Department of Treasury to verify tax exemption claims and to deter fraudulent filings. Any use of the number by closing agents or local units of government is illegal and subject to penalty.

Change an Existing Exemption

You are required to rescind a principal residence exemption when you no longer own and occupy the property as your principal residence. The exemption will be removed December 31st of the year you rescind the exemption.

Line 11. Check the box(es) that most accurately reflects reason you are rescinding your exemption.

Line 12. If you own and live in a multiple-unit or multi-purpose property (e.g. a duplex or apartment building, or a storefront with an upstairs flat), you can claim an exemption only for the portion that you use as your principal residence. Calculate your portion by dividing the floor area of your principal residence by the floor area of the entire building.

If the parcel of property you are claiming has more than one home on it, you must determine the percentage that you own and occupy as your principal residence. A second residence on the same property (e.g. a mobile home or second house), is not part of your principal residence even if it is not rented to another person. Your local assessor can tell you the assessed value of each residence to help you determine the percentage that is your principal residence.

If you rent part of your home to another person, you may have to prorate your exemption. If your home is a single-family dwelling and the renters enter through a common door of your living area to get to their rooms, you may claim 100 percent exemption if less than 50 percent of your home is rented to others who use it as a residence. However, if part of the home was converted to an apartment with a separate entrance, you must calculate the percentage that is your principal residence, by dividing the floor area of your principal residence by the floor area of the entire building.

Line 13. Enter the date that the change(s) indicated on lines 11 and 12 above became effective.

Line 14. Select the appropriate box.

Line 15. If this rescision is being done because of a change in ownership, list the new owner and, if applicable, co-owner on the appropriate lines.

Certification

Sign and date the form. Enter your mailing address if it is different from the address on line 3.

Mailing Information

Mail your completed form to the township or city assessor in which the property is located. This address may be on your most recent tax bill or assessment notice. Do **not** send this form directly to the Department of Treasury.

If you have any questions, visit our Web site at www.michigan.gov/treasury or call 1-800-827-4000.

- (b) The structure is used exclusively for winter protection of fall dug or container grown plants.
- (c) The structure does not have a concrete base greater than 10 inches deep or flooring.

History: Add. 1988, Act 23, Imd. Eff. Feb. 18, 1988.

Popular name: Act 206

211.7cc Homestead exemption from tax levied by local school district for school operating purposes; procedures.

Sec. 7cc. (1) A principal residence is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, if an owner of that principal residence claims an exemption as provided in this section. Notwithstanding the tax day provided in section 2, the status of property as a principal residence shall be determined on the date an affidavit claiming an exemption is filed under subsection (2).

(2) An owner of property may claim an exemption under this section by filing an affidavit on or before May 1 with the local tax collecting unit in which the property is located. The affidavit shall state that the property is owned and occupied as a principal residence by that owner of the property on the date that the affidavit is signed. The affidavit shall be on a form prescribed by the department of treasury. One copy of the affidavit shall be retained by the owner, 1 copy shall be retained by the local tax collecting unit until any appeal or audit period under this act has expired, and 1 copy shall be forwarded to the department of treasury pursuant to subsection (4), together with all information submitted under subsection (26) for a cooperative housing corporation. The affidavit shall require the owner claiming the exemption to indicate if that owner or that owner's spouse has claimed another exemption on property in this state that is not rescinded or a substantially similar exemption, deduction, or credit on property in another state that is not rescinded. If the affidavit requires an owner to include a social security number, that owner's number is subject to the disclosure restrictions in 1941 PA 122, MCL 205.1 to 205.31. If an owner of property filed an affidavit for an exemption under this section before January 1, 2004, that affidavit shall be considered the affidavit required under this subsection for a principal residence exemption and that exemption shall remain in effect until rescinded as provided in this section.

(3) A husband and wife who are required to file or who do file a joint Michigan income tax return are entitled to not more than 1 exemption under this section. For taxes levied after December 31, 2002, a person is not entitled to an exemption under this section if any of the following conditions occur:

(a) That person has claimed a substantially similar exemption, deduction, or credit on property in another state that is not rescinded.

(b) Subject to subdivision (a), that person or his or her spouse owns property in a state other than this state for which that person or his or her spouse claims an exemption, deduction, or credit substantially similar to the exemption provided under this section, unless that person and his or her spouse file separate income tax returns.

(c) That person has filed a nonresident Michigan income tax return, except active duty military personnel stationed in this state with his or her principal residence in this state.

(d) That person has filed an income tax return in a state other than this state as a resident, except active duty military personnel stationed in this state with his or her principal residence in this state.

(e) That person has previously rescinded an exemption under this section for the same property for which an exemption is now claimed and there has not been a transfer of ownership of that property after the previous exemption was rescinded, if either of the following conditions is satisfied:

(i) That person has claimed an exemption under this section for any other property for that tax year.

(ii) That person has rescinded an exemption under this section on other property, which exemption remains in effect for that tax year, and there has not been a transfer of ownership of that property.

(4) Upon receipt of an affidavit filed under subsection (2) and unless the claim is denied under this section, the assessor shall exempt the property from the collection of the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, as provided in subsection (1) until December 31 of the year in which the property is transferred or is no longer a principal residence as defined in section 7dd. The local tax collecting unit shall forward copies of affidavits to the department of treasury according to a schedule prescribed by the department of treasury.

(5) Not more than 90 days after exempted property is no longer used as a principal residence by the owner claiming an exemption, that owner shall rescind the claim of exemption by filing with the local tax collecting unit a rescission form prescribed by the department of treasury. An owner who fails to file a rescission as required by this subsection is subject to a penalty of \$5.00 per day for each separate failure beginning after the 90 days have elapsed, up to a maximum of \$200.00. This penalty shall be collected under 1941 PA 122, MCL 205.1 to 205.31, and shall be deposited in the state school aid fund established in section 11 of article IX of

the state constitution of 1963. This penalty may be waived by the department of treasury.

(6) If the assessor of the local tax collecting unit believes that the property for which an exemption is claimed is not the principal residence of the owner claiming the exemption, the assessor may deny a new or existing claim by notifying the owner and the department of treasury in writing of the reason for the denial and advising the owner that the denial may be appealed to the residential and small claims division of the Michigan tax tribunal within 35 days after the date of the notice. The assessor may deny a claim for exemption for the current year and for the 3 immediately preceding calendar years. If the assessor denies an existing claim for exemption, the assessor shall remove the exemption of the property and, if the tax roll is in the local tax collecting unit's possession, amend the tax roll to reflect the denial and the local treasurer shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. If the tax roll is in the county treasurer's possession, the tax roll shall be amended to reflect the denial and the county treasurer shall within 30 days of the date of the denial prepare and submit a supplemental tax bill for any additional taxes, together with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. Interest on any tax set forth in a corrected or supplemental tax bill shall again begin to accrue 60 days after the date the corrected or supplemental tax bill is issued at the rate of 1.25% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill shall be returned as delinquent on the March 1 in the year immediately succeeding the year in which the corrected or supplemental tax bill is issued. If the assessor denies an existing claim for exemption, the interest due shall be distributed as provided in subsection (23). However, if the property has been transferred to a bona fide purchaser before additional taxes were billed to the seller as a result of the denial of a claim for exemption, the taxes, interest, and penalties shall not be a lien on the property and shall not be billed to the bona fide purchaser, and the local tax collecting unit if the local tax collecting unit has possession of the tax roll or the county treasurer if the county has possession of the tax roll shall notify the department of treasury of the amount of tax due, interest, and penalties through the date of that notification. The department of treasury shall then assess the owner who claimed the exemption under this section for the tax, interest, and penalties accruing as a result of the denial of the claim for exemption, if any, as for unpaid taxes provided under 1941 PA 122, MCL 205.1 to 205.31, and shall deposit any tax or penalty collected into the state school aid fund and shall distribute any interest collected as provided in subsection (23). The denial shall be made on a form prescribed by the department of treasury. If the property for which the assessor has denied a claim for exemption under this subsection is located in a county in which the county treasurer or the county equalization director have elected to audit exemptions under subsection (10), the assessor shall notify the county treasurer or the county equalization director of the denial under this subsection.

(7) If the assessor of the local tax collecting unit believes that the property for which the exemption is claimed is not the principal residence of the owner claiming the exemption and has not denied the claim, the assessor shall include a recommendation for denial with any affidavit that is forwarded to the department of treasury or, for an existing claim, shall send a recommendation for denial to the department of treasury, stating the reasons for the recommendation.

(8) The department of treasury shall determine if the property is the principal residence of the owner claiming the exemption. The department of treasury may review the validity of exemptions for the current calendar year and for the 3 immediately preceding calendar years. If the department of treasury determines that the property is not the principal residence of the owner claiming the exemption, the department shall send a notice of that determination to the local tax collecting unit and to the owner of the property claiming the exemption, indicating that the claim for exemption is denied, stating the reason for the denial, and advising the owner claiming the exemption of the right to appeal the determination to the department of treasury and what those rights of appeal are. The department of treasury may issue a notice denying a claim if an owner fails to respond within 30 days of receipt of a request for information from that department. An owner may appeal the denial of a claim of exemption to the department of treasury within 35 days of receipt of the notice of denial. An appeal to the department of treasury shall be conducted according to the provisions for an informal conference in section 21 of 1941 PA 122, MCL 205.21. Within 10 days after acknowledging an appeal of a denial of a claim of exemption, the department of treasury shall notify the assessor and the treasurer for the county in which the property is located that an appeal has been filed. Upon receipt of a notice that the department of treasury has denied a claim for exemption, the assessor shall remove the exemption of the property and, if the tax roll is in the local tax collecting unit's possession, amend the tax roll to reflect the denial and the local treasurer shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest and penalty. If the tax roll is in the county

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8. A trust agreement gives the trustee discretion to distribute the home to any of the beneficiaries or to sell the home and distribute the proceeds to the beneficiaries. One of the beneficiaries occupies the home as a principal residence and continues to live there while the home is being sold by the trust. May the beneficiary/occupant claim an exemption?

Yes, see question 3.

9. The decedent co-owned the home, but the decedent's interest was placed in a revocable trust, which is now irrevocable. The surviving joint owner continues to occupy the home, but is not one of the decedent's beneficiaries. May the surviving joint owner file an exemption?

Yes. Since the surviving joint owner co-owns and occupies the property, he or she may claim an exemption.

10. A trust was created by a decedent's death before the filing deadline. Three properties were transferred to the trust. Two of the children are life beneficiaries and occupy the homes they inherited. The third home is unoccupied and is being sold. May the trustee file a claim for the home, which is for sale, on behalf of the trust?

No, because the trust cannot occupy the home as a principal residence. The life beneficiaries may claim their respective homesteads, which they occupy as their principal residences.

11. I have placed property in an irrevocable, qualified personal residence trust. The property will be my children's in 20 years. The property is my principal residence. May I claim a homeowner's principal residence exemption on this property?

Yes. The IRS allows individuals to place their personal residences in a qualified personal residence trust. The individual (grantor) must continue to occupy the property as a personal residence. The IRS recognizes the grantor and spouse as the owner and only the grantor, spouse and dependents may occupy the home.

As long as the house is your principal residence on the date the affidavit is filed, you may claim an exemption.

12. A person that qualified for a homeowner's principal residence exemption, but did not file, dies. Can the estate file on the owner's behalf to recoup taxes for prior years?

Yes.

Chapter 8. Social Security Numbers

1. Can the State of Michigan require my social security number? Will it be kept confidential?

The Michigan Department of Treasury has the legal authority to use social security numbers for tax purposes. Federal law prohibits the state or local governmental units from releasing a social security number to unauthorized persons. Local government units may not use social security numbers for any purpose other than to administer the homeowner's principal residence exemption.

2. Will I receive the homeowner's principal residence exemption if I do not enter my social security number?

The Department may deny a claim if homeowner refuses to provide his or her social security number on written request from the Department of Treasury.

Chapter 9. Rescinding an Exemption.

1. What is a rescission? When is the exemption removed from the tax roll?

The parcel qualified for exemption but has now been sold or the use of the property has changed. The exemption is removed from the tax roll on December 31 of the year in which the change or sale took place.

2. When I file an exemption on my new residence, what happens to the exemption on the residence I sold?

The exemption remains in effect until December 31 of the year you move out. You must rescind your exemption within 90 days of the date you no longer either own *or* occupy the property as your principal residence, whichever comes first.

3. Treasury notified the assessor to rescind an exemption; however, an affidavit is on file for the purchaser. Does the assessor have to rescind the exemption?

No. If a valid affidavit is on file from the current owner, do not rescind the exemption.

4. What happens if a lender foreclosed on a mortgage?

The principal residence exemption must be rescinded using Form 2602, Request to Rescind Homeowner's Principal Residence Exemption.

5. I am moving into a new home and converting my current home to a rental property in November. Do I have to rescind the exemption on my current home?

Yes, within 90 days of moving. The exemption will remain in place until December 31st of the year that the use was changed from your principal residence to a rental property.

6. Treasury may assess a \$5.00 per day penalty for failure to rescind an exemption. Is this penalty optional and who will enforce it?

Treasury, under the Revenue Act of 1941, as amended, may assess \$5.00 per day penalty up to \$200.00. This penalty applies to transfers or changes of use that occurred on or after October 1, 1994. Treasury may waive the penalty under certain circumstances.

7. When a divorce occurs do new homeowner's principal residence exemption forms have to be

filed?

As long as one of the owners still occupies the home as their principal residence, and the original affidavit was filed joint, the property will still qualify. The owner who no longer owns should file a rescission form using their information.

Chapter 10. Denials

1. What years may be denied using a Notice of Denial (Form 2742 or 4075)?

Counties that have opted-in with the Michigan Department of Treasury and local units may issue denials for the current year and three immediately preceding years.

2. Is the exemption removed from the tax roll at the time the notice of denial is done?

Yes.

3. Does the July or December Board of Review have the authority to issue a Notice of Denial?

Yes, on newly filed affidavits. The assessor and the July or December Boards of Review may issue a Notice of Denial. *See Chapter 12 for more information on the Boards of Review.*

4. What should be done when an exemption is still on the tax rolls because it was not rescinded by taxpayer?

For any year that an exemption should have been rescinded and was not, the exemption should be denied.

5. Can an appeal be made to the Board of Review to overturn a denial?

The Board of Review has no authority to overturn a denial. An appeal of denial of a homeowner's principal residence exemption issued by a county or a local unit must be made to the Residential/Small Claims Division of the Michigan Tax Tribunal (MTT). An appeal of a denial issued by the Department of Treasury must be made to the Department of Treasury, Office of Hearings.

6. If an assessor does a local unit denial, can he/she withdraw the denial?

No. Once a denial has been sent to the taxpayer, the only way to overturn the denial is through the appeals process with MTT. The local unit may appeal to MTT on the taxpayer's behalf.

7. What action should be taken when an assessor discovers an exemption has been carried forward for several years without a Homeowner's Principal Residence Affidavit having been filed?

The assessor should deny the current year and up to three prior years.

8. Do denials occur only if an affidavit has been filed? Can you deny a carryover?

If an exemption is on the tax roll, then a denial can be done to remove it from the tax roll.

9. If a local unit or an opt-in county has doubts about the legitimacy of a claim for a HPRE, and Treasury is unable to supply information because of privacy considerations, should we deny the exemption?

If you are unable to verify that the property being claimed qualifies for a homeowner's principal residence exemption; you should deny the claim. The appeal would be to the Small Claims Division, Michigan Tax Tribunal.

Chapter 11. Denial Appeals

1. If my exemption is denied, may I appeal the decision?

Yes. If the Department of Treasury denies your homeowner's principal residence exemption, you may request an informal hearing with the Michigan Department of Treasury, Office of Hearings within 35 days of the denial. If your appeal is denied, you may appeal to the Residential Small Claims Division of the Michigan Tax Tribunal within 35 days of Treasury's Final Denial. If the county or local unit denies your homeowner's principal residence exemption you may appeal to the Small Claims Division of the Michigan Tax Tribunal within 35 days of the denial.

2. May a local unit assessor or treasurer, or a county treasurer appeal a denial on the taxpayer's behalf?

Yes. They may submit written information supporting the claim on the owner's behalf within 35 calendar days of the date the denial is issued.

3. If an owner's exemption is reinstated as the result of an appeal of a denial, how are refunds issued?

The Treasurer (local or county) who is in possession of the tax roll issues the refund. The refund will include any interest or penalty the owner paid on non-principal residence taxes and is issued within 30 days of the date notice is received. Refunds will not accrue interest.

4. If I request a hearing from Treasury or the Michigan Tax Tribunal, does that extend the period of time in which I may pay my corrected tax bill with no penalty or interest?

No. A request for hearing does not extend your payment period for any supplemental taxes and there is no provision in the law for a waiver of penalty and/or interest if the supplemental taxes are still due after the hearing process.

5. What happens with land divisions that create parcels that end up with prior taxes due because of principal residence exemption errors?

The owners should be re-billed using appropriate PIN.

Chapter 12. Board of Review

1. What may be appealed to the Board of Review (BOR)?

Claims for homeowner's principal residence exemption that are not on the tax roll and have not previously been denied may be appealed. The BOR may review these claims for the current year and the three preceding years.

Eric W. Johnson

From: "Eric W. Johnson" <greenlaketownship@charter.net>
To: "Dunn, Natalie" <DunnN@michigan.gov>
Sent: Monday, August 22, 2005 2:19 PM
Attach: 1.bmp; 2.bmp; 13-003-011-05 R001A.JPG
Subject: I Have a Bed & Breakfast PRE question.

Question.

Natalie

I Have a Bed & Breakfast PRE question.

Attached is a building sketch & photo

The owners of this Bed & Breakfast own this structure which totals 4485 sq ft of living area. This total does not include a 1353 sq ft. unfinished basement or a 1344 sq ft garage below the owners (above garage) private residence.

I have calculated the Owners Principal Residence Exemption as follows

Owner Private Quarters	1008 sq ft
Bed & Breakfast Area	+3477 sq ft
Total Floor Area	4485 sq ft

I then divide the Pvt. Owners sq ft of 1008 into the total sq ft of 4485.

This results in 22% or a 22% Owners Principal Residence Exemption

Is this the correct method?

The owners occupy a separate residence which is a separate building connected by a 2nd story enclosed walkway or bridge.

20

08/22/2005

The owners claim that because the entire 1st floor of the B&B is common to both their guest and themselves that this area should not be included is this an accurate claim?

They believe that only the bedroom area in the B&B portion should be considered as no PRE area. Is this correct?

The attached sketch shows the owners PRE area in green and the B&B NON PRE area in yellow. The attached sketch and photo will help you visualize this unique building.

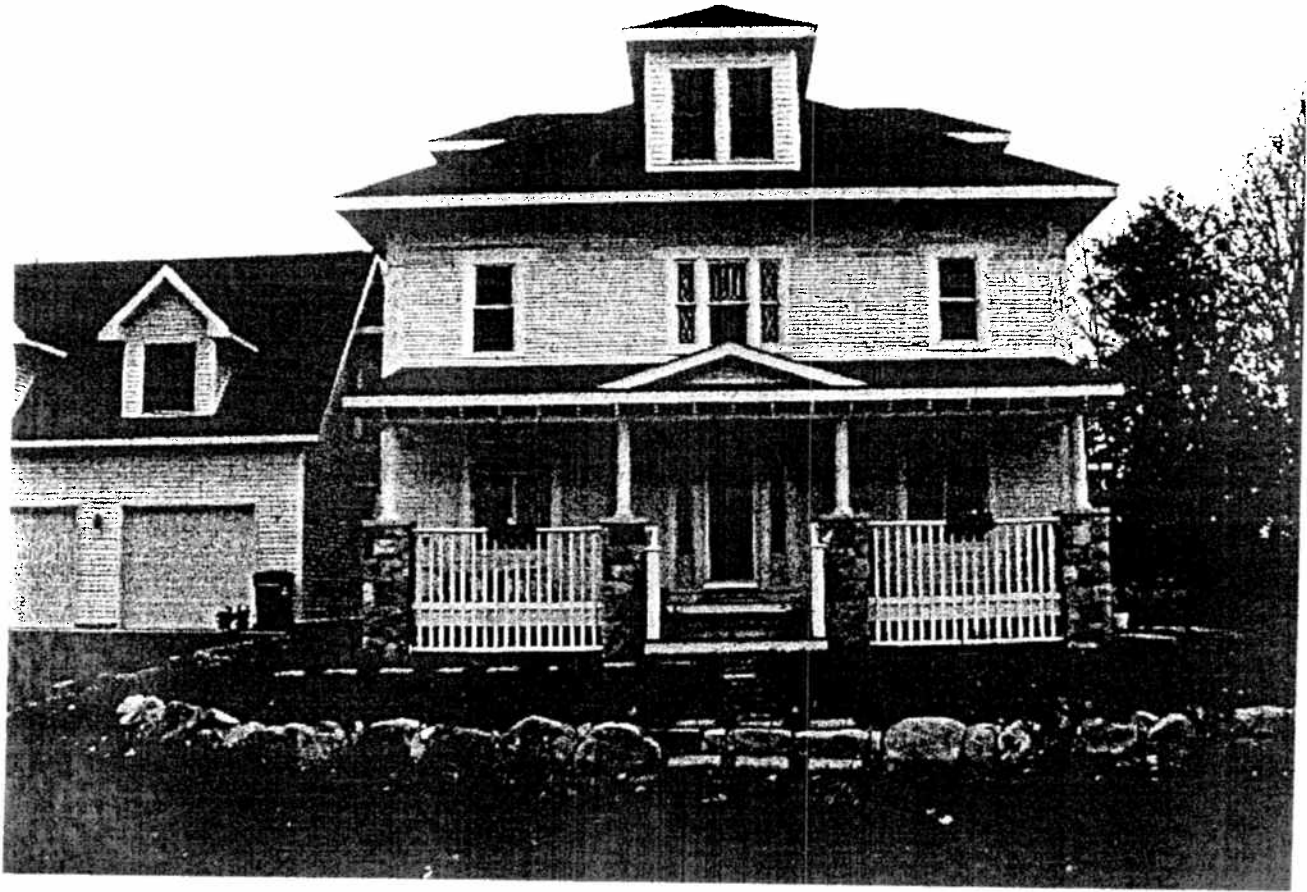
Please email me your opinion.

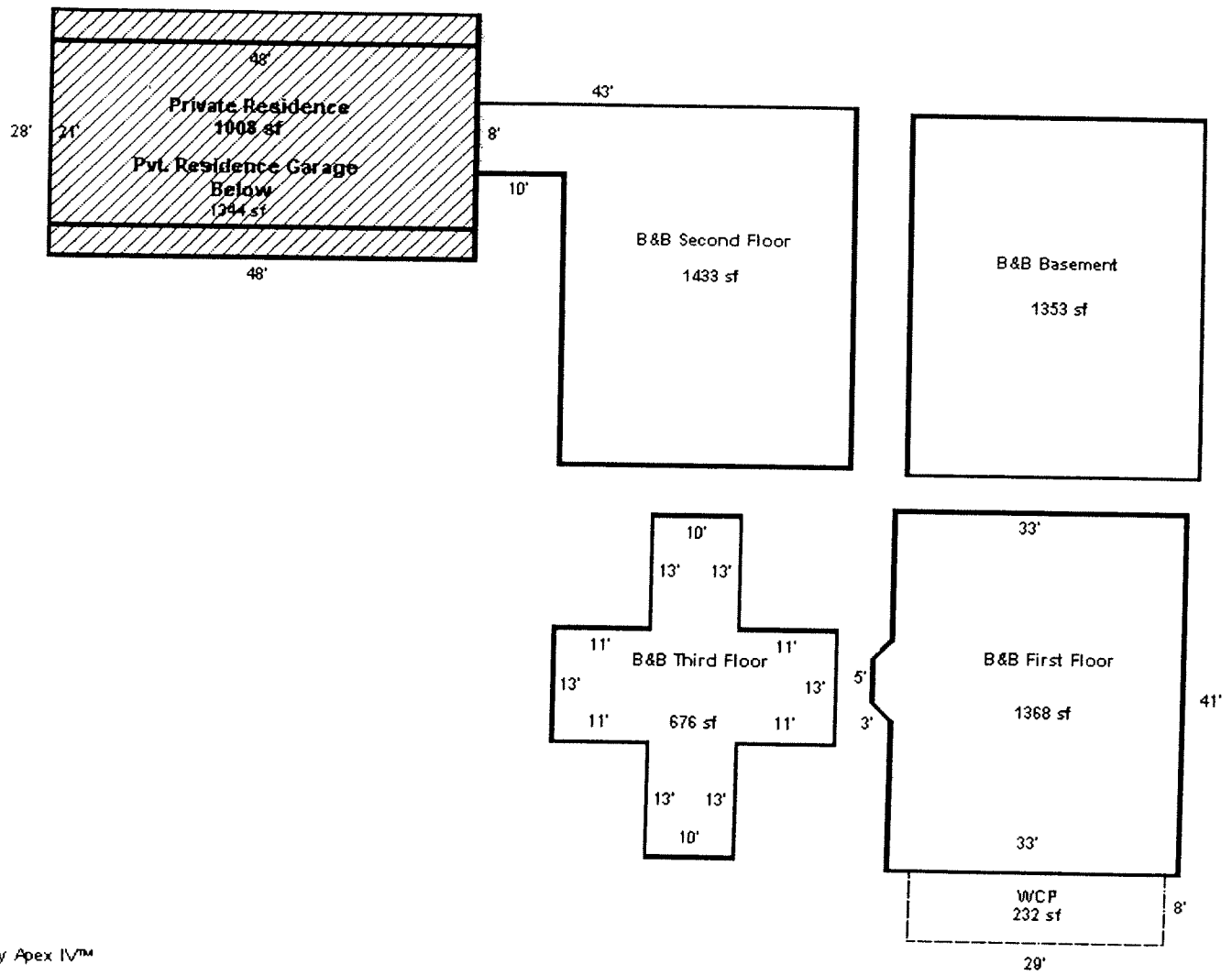
Thank you

Eric W. Johnson

Whitewater Township Assessor







Sketch by Apex IV™

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Eric W. Johnson

From: "Natalie Dunn" <DunnN@michigan.gov>
To: "Eric Johnson" <greenlaketownship@charter.net>
Sent: Tuesday, August 23, 2005 7:10 AM
Subject: Re: I Have a Bed & Breakfast PRE question.

Answer

You have computed it correctly. The portion that is available to the guests is considered business and not eligible for principal residence exemption.

>>> "Eric W. Johnson" <greenlaketownship@charter.net> 8/22/2005 2:19 PM >>>
Natalie

I Have a Bed & Breakfast PRE question.

Attached is a building sketch & photo

The owners of this Bed & Breakfast own this structure which totals 4485 sq ft of living area. This total does not include a 1353 sq ft. unfinished basement or a 1344 sq ft garage below the owners (above garage) private residence.

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I then divide the Pvt. Owners sq ft of 1008 into the total sq ft of 4485.

This results in 22% or a 22% Owners Principal Residence Exemption

Is this the correct method?

The owners occupy a separate residence which is a separate building connected by a 2nd story enclosed walkway or bridge.

25

08/23/2005

The owners claim that because the entire 1st floor of the B&B is common to both their guest and themselves that this area should not be included is this an accurate claim?

They believe that only the bedroom area in the B&B portion should be considered as no PRE area. Is this correct?

The attached sketch shows the owners PRE area in green and the B&B NON PRE area in yellow. The attached sketch and photo will help you visualize this unique building.

Please email me your opinion.

Thank you

Eric W. Johnson

Whitewater Township Assessor

FLOORPLAN

2

Owner: YORK

Property Address: 5721 N BROOMHEAD RD

Y: WILLIAMSBURG

Order: IRWIN MORTGAGE

File No.: S4051M12Y

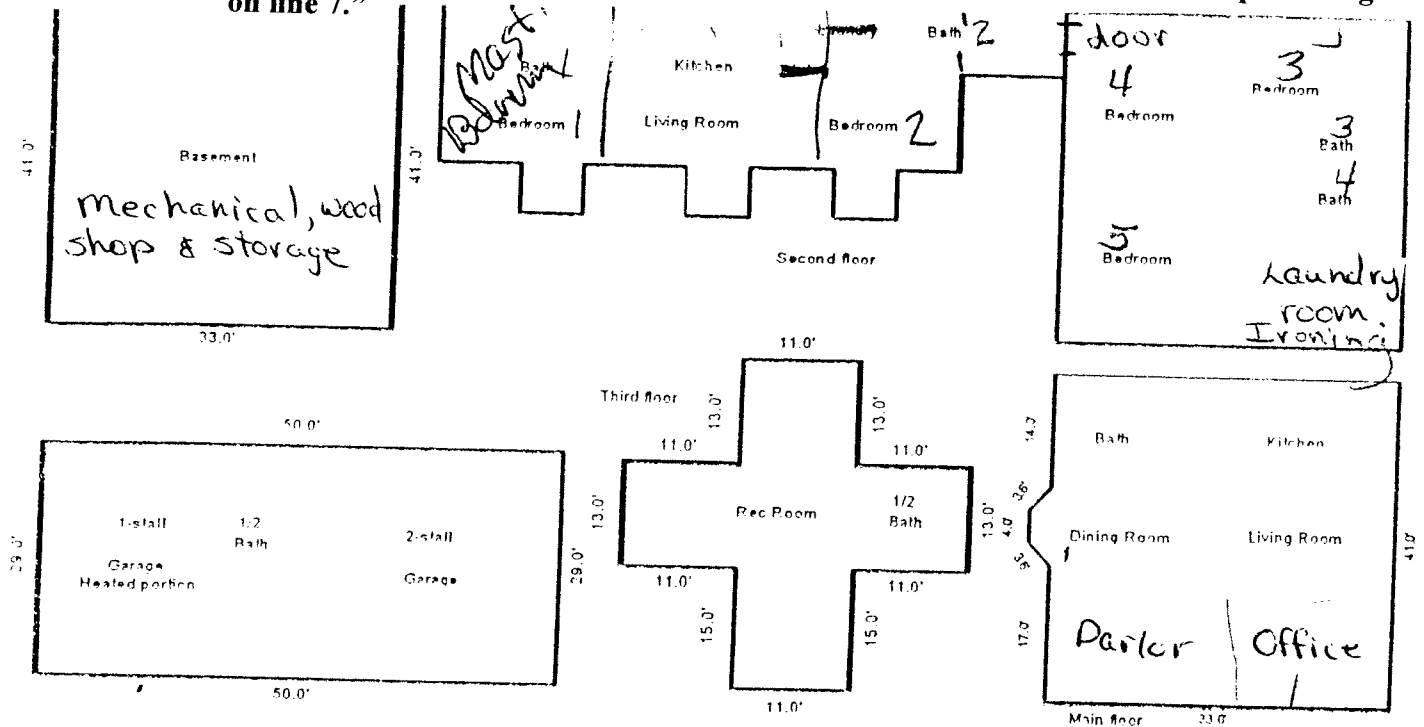
Case No.: YORK

State: MI

Zip: 49690-9

Bedrooms #'s 3, 4 and 5 are used specifically for rental rooms. Bedroom #2 is primarily for personal usage and our cats. Bathroom #3 is designated business as it's located within bedroom 3. Bathroom #4 is shared between bedrooms #4 & #5. We designated it as business space as it's for sharing between two of the rooms designated for rental purposes. The office is used exclusively for business as defined in the instructions and as such is included in the business percentage of the home.

The directions for Federal IRS form 8829 are quite clear that "...you can use square feet or any other reasonable method if it accurately figures your business percentage on line 7."



Arch by Apex IV Windows™

AREA CALCULATIONS SUMMARY			
Code	Description	Size	Totals
GLA1	First Floor	1367.00	1367.00
GLA2	Second Floor	1353.00	1353.00
GLA3	Third Floor	737.00	737.00
BSMT	Basement	1353.00	1353.00
GAP	Garage	1450.00	1450.00
OTH	APARTMENT ABOVE GAP	1188.00	1188.00

LIVING AREA BREAKDOWN			
Breakdown			Subtotals
First Floor			
2.0 x	4.0		8
0.5 x	3.0 x	2.0	3
0.5 x	3.0 x	2.0	3
33.0 x	41.0		1353
Second Floor			
33.0 x	41.0		1353
Third Floor			
11.0 x	15.0		165
13.0 x	23.0		299
11.0 x	13.0		143

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Square Footage Allotted Specifically to Bed and Breakfast

Bedroom #3 (including closet & bathroom #3)	21.083'x12.333' bdrm 7.916'x2.833' closet	282.44 square feet
Bedroom #4 (including closet)	12.333'x11.333' bdrm 3.75'x2.75' closet	150.08 square feet
Bedroom #5 (including closet)	12.333'x11.333' bdrm 5.916'x2.833' closet	156.53 square feet
Bathroom #4 (including shower) (used as both)	9.0'x8.666' bathroom 5.916'x2.833' shower	87.16 square feet
Office (including closet which is used for office supply storage and the fax and credit card machine)	9.75'x13.916' main room 2.166'x5.083' closet	146.69 square feet
		822.90 square feet

Total square footage of our home as indicated by the floor plan on page 8 is 4,645 square feet. 822.90 square feet designated B&B space divided by 4645 square feet is 17.72 percent leaving 82.28% as principal residence.

I consider bedroom and bathroom #2 as personal as they are well over 95% used as personal. That may change if or when our business increases. However, that portion will always be primarily personal and will always be used for our friends, family and our cats. The other bedrooms may occasionally be used for friends and family but are expected to remain primarily Bed and Breakfast. No change is expected in the room specified as the office and that too is designated B&B.

This breakdown is as close to accurate as I am able to provide you at this time.

Comparable Bed & Breakfast Statistics

County	Number of Bedrooms	Homestead Percentage	Non-Homestead Percentage
*1. Grand Traverse	6	65% (formerly)	35% (formerly)
*2. Grand Traverse	3	22% (contested)	75% (contested)
3. Antrim County	4	50%	50%
4. Antrim County	3	75%	25%
5. Leelanau County	3	79%	21%
6. Grand Traverse	3	91%	9%

Sample #1. This home was previously owner operated and had outside staff for cooking and cleaning. It is now family owned but has non-owner live-in managers and is currently considered 100% non-homestead. (per the township assessor)

Sample #2. This is our home. We are the owners (a married couple), we live in the home and we operate our home-based business without outside help. The income is not primary and supplements other income.

Sample #3. This home is owner operated but has separate living quarters within the home and shuts down the rest of the house for the winter.

Sample #4. This home is close in comparison with ours. It's a privately owned residence that is owner operated by a married couple and does not have outside help. The income is not primary and supplements other income.

Sample #5. This home is close in comparison with ours. It's a privately owned residence that is owner operated by a married couple and does not have outside help. The income is not primary and supplements other income.

Sample #6. This home is close in comparison with ours. It's a privately owned residence that is owner operated by a married couple. (I'm not sure about the outside help.) The income is not primary and supplements other income.

Note: It is worthy to mention that bed and breakfasts with 5 or less bedrooms have been considered "bed and breakfast homes" and a non-commercial enterprise. An overall 30% occupancy rate would be considered reasonable.



Instructions for Form 8829

Expenses for Business Use of Your Home

Section references are to the Internal Revenue Code.

General Instructions

Note. If you are claiming expenses for business use of your home as an employee or a partner, or you are claiming these expenses on Schedule F (Form 1040), do not use Form 8829. Instead, complete the worksheet in Pub. 587, Business Use of Your Home (Including Use by Daycare Providers).

Purpose of Form

Use Form 8829 to figure the allowable expenses for business use of your home on Schedule C (Form 1040) and any carryover to 2005 of amounts not deductible in 2004.

If all of the expenses for business use of your home are properly allocable to inventory costs, do not complete Form 8829. These expenses are figured in Schedule C, Part III, and not on Form 8829.

You must meet specific requirements to deduct expenses for the business use of your home. Even if you meet these requirements, your deductible expenses may be limited. Part IV is used to figure any allowable carryover of expenses that are more than the limit. For details, see Publication 587.

Who Can Deduct Expenses for Business Use of a Home

Generally, you can deduct business expenses that apply to a part of your home only if that part is exclusively used on a regular basis:

- As your principal place of business for any of your trades or businesses,
- As a place of business used by your patients, clients, or customers to meet or deal with you in the normal course of your trade or business, or
- In connection with your trade or business if it is a separate structure that is not attached to your home.

As explained on this page, exceptions to this rule apply to space used on a regular basis for:

- Storage of inventory or product samples, and
- Certain daycare facilities.

Principal Place of Business

In determining whether the office in your home qualifies as your principal place of business, you must consider the following two items.

- The relative importance of the activities performed at each place where you conduct business, and
- The amount of time spent at each place where you conduct business.

Your home office will qualify as your principal place of business if you meet the following requirements.

- You use it exclusively and regularly for administrative or management activities of your trade or business.
- You have no other fixed location where you conduct substantial administrative or management activities of your trade or business.

Administrative or management activities. There are many activities that are administrative or managerial in nature. The following are a few examples.

- Billing customers, clients, or patients.
- Keeping books and records.
- Ordering supplies.
- Setting up appointments.
- Forwarding orders or writing reports.

Administrative or management activities performed at other locations. The following activities performed by you or others will not disqualify your home office from being your principal place of business.

- You have others conduct your administrative or management activities at locations other than your home. (For example, another company does your billing from its place of business.)
- You conduct administrative or management activities at places that are not fixed locations of your business, such as in a car or a hotel room.
- You occasionally conduct minimal administrative or management activities at a fixed location outside your home.
- You conduct substantial nonadministrative or nonmanagement business activities at a fixed location outside your home. (For example, you meet with or provide services to customers, clients, or patients at a fixed location of the business outside your home.)
- You have suitable space to conduct administrative or management activities outside your home, but choose to use your home office for those activities instead.

More information. For information on other ways to qualify to deduct business use of the home expenses, see Pub. 587.

Storage of Inventory or Product Samples

You can also deduct expenses that apply to space within your home used on a regular basis to store inventory or product samples from your trade or business of selling products at retail or wholesale. Your home must be the only fixed location of your trade or business.

Daycare Facilities

If you use space in your home on a regular basis in the trade or business of providing daycare, you may be able to deduct the business expenses even though you use

the same space for nonbusiness purposes. To qualify for this exception, you must have applied for (and not have been rejected), been granted (and still have in effect), or be exempt from having a license, certification, registration, or approval as a daycare center or as a family or group daycare home under state law.

Expenses Related to Tax-Exempt Income

Generally, you cannot deduct expenses that are allocable to tax-exempt income. However, if you receive a tax-exempt parsonage allowance or a tax-exempt military housing allowance, your expenses for mortgage interest and real property taxes are deductible under the normal rules. No deduction is allowed for other expenses allocable to the tax-exempt allowance.

Specific Instructions

Part I

Lines 1 and 2

To determine the area on lines 1 and 2, you can use square feet or any other reasonable method if it accurately figures your business percentage on line 7.

Do not include on line 1 the area of your home you used to figure any expenses allocable to inventory costs. The business percentage of these expenses should have been taken into account in Schedule C, Part III.

Special Computation for Certain Daycare Facilities

If the part of your home used as a daycare facility included areas used exclusively for business as well as other areas used only partly for business, you cannot figure your business percentage using Part I. Instead, follow these three steps:

1. Figure the business percentage of the part of your home used exclusively for business by dividing the area used exclusively for business by the total area of the home.
2. Figure the business percentage of the part of your home used only partly for business by following the same method used in Part I of the form, but enter on line 1 of your computation only the area of the home used partly for business.
3. Add the business percentages you figured in the first two steps and enter the result on line 7. Attach your computation and enter "See attached computation" directly above the percentage you entered on line 7.

Line 4

Enter the total number of hours the facility was used for daycare during the year.

Example. Your home is used Monday through Friday for 12 hours per day for 250 days during the year. It is also used on 50 Saturdays for 8 hours per day. Enter 3,400 hours on line 4 (3,000 hours for weekdays plus 400 hours for Saturdays).

Line 5

If you started or stopped using your home for daycare in 2004, you must prorate the number of hours based on the number of days the home was available for daycare. Cross out the preprinted entry on line 5. Multiply 24 hours by the number of days available and enter the result.

Part II

Line 8

If all the gross income from your trade or business is from the business use of your home, enter on line 8 the amount from Schedule C, line 29, plus any net gain or (loss) derived from the business use of your home and shown on Schedule D or Form 4797. If you file more than one Form 8829, include only the income earned and the deductions attributable to that income during the period you owned the home for which Part I was completed.

If some of the income is from a place of business other than your home, you must first determine the part of your gross income (Schedule C, line 7, and gains from Schedule D and Form 4797) from the business use of your home. In making this determination, consider the amount of time you spend at each location as well as other facts. After determining the part of your gross income from the business use of your home, subtract from that amount the total expenses shown on Schedule C, line 28, plus any losses from your business shown on Schedule D or Form 4797. Enter the result on Form 8829, line 8.

Columns (a) and (b)

Enter as direct or indirect expenses only expenses for the business use of your home (that is, expenses allowable only because your home is used for business). If you did not operate a business for the entire year, you can deduct only the expenses paid or incurred for the portion of the year you used your home for business. Other expenses not allocable to the business use of your home, such as salaries, supplies, and business telephone expenses, are deductible elsewhere on Schedule C and should not be entered on Form 8829.

Direct expenses benefit only the business part of your home. They include painting or repairs made to the specific area or rooms used for business. Enter 100% of your direct expenses on the appropriate line in column (a).

Indirect expenses are for keeping up and running your entire home. They benefit both the business and personal parts of your home. Generally, enter 100% of your indirect expenses on the appropriate line in column (b).

Exception. If the business percentage of an indirect expense is different from the percentage on line 7, enter only the business part of the expense on the appropriate line in column (a), and leave that line in column (b) blank. For example, your electric bill is \$800 for lighting, cooking, laundry, and television. If you reasonably estimate \$300 of your electric bill is for lighting and you use 10% of your home for business, enter \$30 on line 19 in column (a). Do not make an entry on line 19 in column (b) for any part of your electric bill.

Lines 9, 10, and 11

Enter only the amounts that would be deductible whether or not you used your home for business (that is, amounts allowable as itemized deductions on Schedule A (Form 1040)).

Treat casualty losses as personal expenses for this step. Figure the amount to enter on line 9 by completing Form 4684, Section A. When figuring Form 4684, line 17, enter 10% of your adjusted gross income excluding the gross income from business use of your home and the deductions attributable to that income. Include on Form 8829, line 9, the amount from Form 4684, line 18. See *Line 27* below to deduct part of the casualty losses not allowed because of the limits on Form 4684.

Do not file or use that Form 4684 to figure the amount of casualty losses to deduct on Schedule A. Instead, complete a separate Form 4684 to deduct the personal portion of your casualty losses.

On line 10, include only mortgage interest that would be deductible on Schedule A and that qualifies as a direct or indirect expense. Do not include interest on a mortgage loan that did not benefit your home (for example, a home equity loan used to pay off credit card bills, to buy a car, or to pay tuition costs).

If you itemize your deductions, be sure to claim only the personal portion of your deductible mortgage interest and real estate taxes on Schedule A. For example, if your business percentage on line 7 is 30%, you can claim 70% of your deductible mortgage interest and real estate taxes on Schedule A.

Line 16

If the amount of home mortgage interest you deduct on Schedule A is limited, enter the part of the excess mortgage interest that qualifies as a direct or indirect expense. Do not include mortgage interest on a loan that did not benefit your home (explained earlier).

Line 20

Include on this line any 2004 operating expenses not included on lines 9 through 19.

If you rent rather than own your home, include the rent you paid on line 20, column (b). If your housing is provided free of charge and the value of the housing is tax exempt, you cannot deduct the rental value of any portion of the housing.

Line 27

Multiply your casualty losses in excess of the amount on line 9 by the business percentage of those losses and enter the result.

Line 34

If your home was used in more than one business, allocate the amount shown on line 34 to each business using any method that is reasonable under the circumstances. For each business, enter on Schedule C, line 30, only the amount allocated to that business.

Part III

Lines 35 Through 37

Enter on line 35 the cost or other basis of your home, or, if less, the fair market value of your home on the date you first used the home for business. Do not adjust this amount for depreciation claimed or changes in fair market value after the year you first used your home for business. Allocate this amount between land and building values on lines 36 and 37.

Attach your own schedule showing the cost or other basis of additions and improvements placed in service after you began to use your home for business. Do not include any amounts on lines 35 through 38 for these expenditures. Instead, see the instructions for line 40.

Line 39

IF you first used your home for business in the following month in 2004...	THEN enter the following percentage on line 39*...
January	2.461%
February	2.247%
March	2.033%
April	1.819%
May	1.605%
June	1.391%
July	1.177%
August	0.963%
September	0.749%
October	0.535%
November	0.321%
December	0.107%

IF you first used your home for business...	THEN the percentage to enter on line 39 is...
after May 12, 1993, and before 2004 (except as noted below),	2.564%*.
after May 12, 1993, and before 1994, and you either started construction or had a binding contract to buy or build that home before May 13, 1993,	the percentage given in Pub. 946.
after May 12, 1993, and you stopped using your home for business before the end of the year,	the percentage given in Pub. 946 as adjusted by the instructions under <i>Sale or Other Disposition Before the Recovery Period Ends</i> in that publication.
after 1986 and before May 13, 1993,	the percentage given in Pub. 946.

IF you first used your home for business...	THEN the percentage to enter on line 39 is...
before 1987,	the percentage given in Pub. 534, Depreciating Property Placed in Service Before 1987.
* Exception. If the business part of your home is qualified Indian reservation property (as defined in section 168(j)(4)), see Pub. 946, How To Depreciate Property, to figure the depreciation.	

Line 40

If no additions and improvements were placed in service after you began using your home for business, multiply line 38 by the percentage on line 39. Enter the result on lines 40 and 28.

IF additions and improvements were placed in service...	THEN figure the depreciation allowed on these expenditures by multiplying the business part of their cost or other basis by...
during 2004 (but after you began using your home for business),	the percentage in the line 39 instructions for the month placed in service*.
after May 12, 1993, and before 2004 (except as noted below),	2.564%*.
after May 12, 1993, and before 1994, and you either started construction or had a binding contract to buy or build that home before May 13, 1993,	the percentage given in Pub. 946.
after May 12, 1993, and you stopped using your home for business before the end of the year,	the percentage given in Pub. 946 as adjusted by the instructions under <i>Sale or Other Disposition Before the Recovery Period Ends</i> in that publication.
after 1986 and before May 13, 1993,	the percentage given in Pub. 946.
before 1987,	the percentage given in Pub. 534.

*See the *Exception* on page 3.

Attach a schedule showing your computation and include the amount you figured in the total for line 40. Enter "See attached" below the entry space.

Complete and attach Form 4562, Depreciation and Amortization, only if:

- You first used your home for business in 2004, or
- You are depreciating additions and improvements placed in service in 2004.

If you first used your home for business in 2004, enter the amounts from Form 8829, lines 38 and 40, in

columns (c) and (g) of line 19i, Form 4562. In column (b) of line 19i, enter the month and year you first used your home for business. Do not include the amount from Form 8829, line 40, on Schedule C, line 13.

If you are depreciating additions and improvements placed in service in 2004, enter in column (b) of line 19i on Form 4562 the month and year the additions or improvements were placed in service. Enter the business basis of the additions or improvements in column (c) and the depreciation allowable on the additions or improvements in column (g). Do not include the amount entered in column (g) on Schedule C, line 13.

Part IV

If your expenses are greater than the current year's limit, you can carry over the excess to 2005. The carryover will be subject to the deduction limit for that year, whether or not you live in the same home during that year.

Line 41

Figure the amount of operating expenses you can carry over to 2005 by subtracting line 25 from line 24. If the result is zero or less, you have no amount to carry over.

Line 42

Figure the amount of excess casualty losses and depreciation you can carry over to 2005 by subtracting line 31 from line 30. If the result is zero or less, you have no amount to carry over.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping**, 52 min.; **Learning about the law or the form**, 7 min.; **Preparing the form**, 1 hr., 15 min.; and **Copying, assembling, and sending the form to the IRS**, 20 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the Instructions for Form 1040.

Judy York

From: "manning tax service" <manningtaxservice@torchlake.com>
To: "Judy York" <juyork@charter.net>
Sent: Friday, September 09, 2005 11:01 PM
Subject: Re: I'm just checking!

yes you have it right, and acceptable also.

----- Original Message -----

From: Judy York
To: manning tax service
Sent: Friday, September 09, 2005 6:45 PM
Subject: I'm just checking!

Hey there Harry,

Thanks for coming over to dinner and letting me pick your brain. I'm getting stuff together for the Michigan Tax Tribunal and want be sure of my information so I'm accurate and don't stick my foot in my mouth.

About the home business expenses. I need a clarification. Soooooo, I have an office that is exclusively used for business which is what the Feds say has to be the case, cause if it's also used for anything personal it can't be business. Is that right?

I have designated three bedrooms and two bathrooms for guest usage (that's all the township will allow) but we (as in paying and nonpaying guests and John and I) all use the other areas of the house, ie; livingroom, kitchen, parlor, diningroom, pool table/entertainment room.

So the rest of the house is considered personal home (non-business) ? From what I'm reading they said "you can use square feet or any other reasonable method if it accurately figures your business percentage." I designated rooms and used square feet.

THEN, anything specifically for those rooms designated for business can be direct expenses (100%) while indirect expenses (such as electric would be the total house expense times the percentage of the house designated for business? Is that right? AND, is it acceptable?

The regulations are much too complicated for me but if I get the basics down and give you whatever other information you need then you can figure it out, right?

Thanks a bunch.

Judy

35

9/10/2005

There is a case for a 100% homestead exemption within the rules. It is a statement of fact that the law defines a bed and breakfast as a personal residence that is owner occupied. The law further clarifies that bedrooms are rented and that breakfast is to be included in the cost of the room without additional cost. It is not considered a commercial enterprise.

The building is not considered a commercial building but rather, a private home under the state's construction code. The intent of the laws is to provide some legal protection for bed and breakfast establishments and at the same time to differentiate them from commercial hotel and motel establishments.

Under the *Guidelines for the Michigan Homestead Property Tax Exemption under "Multi-Purpose Property" question #2 refers to providing for childcare in the home and specifically states that the entire home is homestead even though childcare is provided within the home.

Under the same *guidelines and again under "Multi—Purpose Property" question #3 refers to renting a room to a boarder who occupies less than 50% of the home as his principal residence and again in that case a 100 % homestead exemption would be allowed the owner.

Question #7 (same *guidelines) asks if an exemption can be claimed if the owner operates a bed and breakfast. The answer states quite unequivocally "Yes, but only the portion of the property that you use as your homestead." The following question, #8, which is also a bed and breakfast reference, asks specifically about a 50% exemption if the person occupies 50% of the square footage as principal residence and the answer is the same as question #7. We live in our entire home, have designated specific rooms for rental and office but the primary usage will always be our personal home.

Question #8 states that "If you use part of your principal residence for "commercial" purposes like a bed and breakfast or an adult foster care home, you may claim an exemption only on the percentage of the home you occupy as your principal residence."

It's not used as much as it would be if we had a daycare home or a fulltime boarder so why should it be considered anything less than 100% homestead?

In taking a common sense approach we have 3 rooms available 7 days a week 50 weeks a year. 3 rooms' x 7 days a week x 50 weeks a year equals a potential of 1050 rental room nights per year. Thus far this year we have rented approximately 60 room nights. 60 room nights divided by a possible 1050 total nights per year equals approximately 6% occupancy. This is not considered a fulltime living and falls short of even being supplemental income.

The rooms designated are in keeping with the number of rooms allowed by the township. The percentages stated are reasonable and acceptable by the IRS as verified by Manning Tax Service.

Request to Rescind Homeowner's Principal Residence Exemption

Issued under authority of Public Act 267 of 1994.

This form must be filed with the assessor for the city or township where the property is located.

Print or type in blue or black ink. Use a separate form for each property number.

Property Information		
▶ 1. Property Tax Identification Number 28-13-003-011-05		▶ 2. ZIP Code 49690
▶ 3. Street Address of Property 5721 N. Broomhead Rd.	4. Name of Township or City <input checked="" type="checkbox"/> Township <input type="checkbox"/> City whitewater	5. County Grand Traverse
▶ 6. Name of Owner (First, Middle, Last) Judy A. York		▶ 7. Owner's Social Security Number 386-56-1140
▶ 8. Name of Co-Owner (First, Middle, Last) John W. York		▶ 9. Co-Owner's Social Security Number 374-74-9458

10. Property owner's daytime phone number (231) 267-5471

11. I am rescinding this property because (check appropriate box(es) below):	
a. I am no longer the owner of the property.	11a. <input type="checkbox"/>
b. I own the property, but I no longer occupy the property as my principal residence.	11b. <input type="checkbox"/>
c. I have converted the property to rental property.	11c. <input type="checkbox"/>
d. I have converted the property to commercial property.	11d. <input type="checkbox"/>
12. If the portion of the property in line 1 that you own and occupy as your principal residence has changed, enter the new percentage here	
▶ 12. 82 %	
13. Effective date of the change listed in either 11 or 12	
▶ 13. 02/14/2005 Month Day Year	
14. This rescission applies to:	
a. Owner and Co-owner as listed in boxes 6 and 8 above.	14a. <input checked="" type="checkbox"/>
b. Owner only, as listed in box 6 above.	14b. <input type="checkbox"/>
c. Co-owner only, as listed in box 8 above.	14c. <input type="checkbox"/>
15a. New Owner's Name	15b. New Co-Owner's Name

Certification			
I certify under penalty of perjury the information contained on this document is true and correct to the best of my knowledge.			
16. Owner's Signature	Date	17. Co-Owner's Signature	Date
18. Mailing Address, if Different than Property Address Above			
19. Closing Agent or Preparer's Name and Mailing Address			

Local Government Use Only -- Do Not Write Below This Line	
What is the first year this change will be posted to the tax roll?	▶ 20.
Indicate property classification	21.

Whitewater Township

Eric W. Johnson, Assessor
PO Box 5431
Traverse City, MI. 49696-5431

Telephone 231-947-4007

June 5, 2006

Mr. & Mrs. John York
5721 N Broomhead Rd.
Williamsburg, MI 49690

Re: Principal Residence Exemption

Dear Mr. & Mrs. York,

Enclosed please find the "Stipulation for Entry of Consent Judgment" for your 2005 property taxes. Please sign the original and return to me in the enclosed envelope so that I can file it with the State of Michigan. Please keep a copy for yourself.

Your 2006 Principal Residence Exemption will be adjusted to 82.28% at this July Board of Review.

If you have any questions, please call 231-947-4007.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric W. Johnson", with a long, sweeping horizontal line extending to the right.

Eric W. Johnson, Assessor
Whitewater Township

STATE OF MICHIGAN
DEPARTMENT OF LABOR AND ECONOMIC GROWTH
MICHIGAN TAX TRIBUNAL

Judy & John York
Petitioner(s)

v
Whitewater Township
Respondent(s)

MTT Docket No. 0319803.

STIPULATION FOR ENTRY OF CONSENT JUDGMENT
(Use for Principal Residence Exemption [PRE])

1. The subject property is located in Grand Traverse County.
2. The subject property is classified as Residential Real property.
3. The subject property is located in the school district of Elk Rapids Public and Traverse Bay Area Intermediate.
4. Date of denial 8/12/05 and taxing unit who denied the PRE Whitewater Township
5. The original Principal Residence Exemption percentage is as shown below:

Parcel Number	Year	Original PRE percentage
<u>28-13-003-011-05</u>	<u>2005</u>	<u>22%</u>

6. The revised Principal Residence Exemption percentage is as shown below:

Parcel Number	Year	Revised PRE percentage
<u>28-13-003-011-05</u>	<u>2005</u>	<u>100%</u>

7. This stipulation constitutes the entire agreement between the parties, written or otherwise, as to the property's assessment(s) for the tax year(s) at issue or any other tax year(s). If this stipulation does not constitute the entire agreement, the documents enclosed with this stipulation constitute the entire agreement between the parties.

(Petitioner or Authorized Agent signature)

Eddie [Signature]
(Respondent or Authorized Agent signature) Assessor
Whitewater

(Date)

6/5/06
(Date)

My name is Jennifer Sue Field and along with my husband, Dennis Field, own and operate the Field of Dreams Bed and Breakfast in Traverse City, Mi. We have compiled in chronological order the steps we have taken and the results thereof involving the homestead eligibility for bed and breakfast operations.

In June of 1997 we purchased our home in Traverse City to open a bed and breakfast but because we still owned our home in Grand Rapids we paid the full tax on our Traverse City home. We sold our Grand Rapids home in May of 2000 allowing us to use our 100% homestead exemption on our bed and breakfast and home in Traverse City.

On September 23, 2003 we received notice from the Peninsula Township that we could only claim the part of our home we use as our principal residence for tax exemption removing the part we used for commercial purposes according to Public Act 105 of 2003. This reduced our homestead from 100% to 81%. Also "Grand Traverse County is exercising its right to retrieve up to three previous years taxes in which the full exemption was claimed in error." This resulted in a 2002 Homestead Denial Tax Notice in which we were assessed an additional amount of \$770.06 in back taxes due to the 19% reduction of our homestead tax dated December 15, 2003 and due on or before February 17, 2004 to avoid taxes and penalties.

On December 9, 2003 a hearing was held at the Peninsula Township Board of Review requesting a return to 100% homestead. Their decision; "Although the December Board of Review acknowledges their lack of authority to adjust the percentage of homestead calculation for bed and breakfasts, based on the current criteria of tax law, we do believe there is merit to the argument presented. Further, a redefining of the homestead percentage exemption calculation should be investigated."

On January 6, 2004 we, along with other B&B's in this area, petitioned for a tax hearing with the Michigan Tax Tribunal claiming that we were owner occupied and our home was used primarily as a residence well over 50% of the time and questioning the three previous years collection of taxes. This hearing was held on April 28, 2005 and presided over by Administrative Law Judge, James Sisk. At this time the Peninsula Township Assessor adjusted our percentage to 84% from 81% due to missed footage of personal use. Opinion and Judgment: Multi-Purpose Property of Guidelines for the Michigan Homeowner's Principal Residence Exemption Program (revised August 2004) Petitioner's qualify only for 84% principal residence exemption.

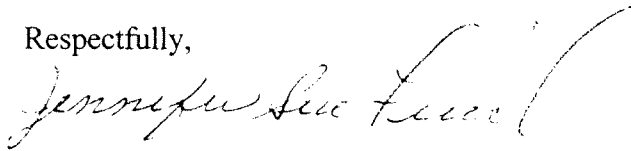
This prompted the Treasury Department to review our previous years income tax records (02-04). According to form #8829 line 3 our accountant had applied 72% of our home as business use. This figure was used because we were at 100% homestead at the time of filing. The Treasury Department used this figure against us and readjusted our homestead to 28%. Keep in mind that this "new" interpretation wasn't active until 2004.

Their decision was that we were to pay the difference from 100% to 28% retroactively from 2002-2005. We were only into September of 2005 and weren't allowed to adjust our taxes for that year. Our total bill with taxes and penalties amounted to \$5595.83. This change in interpretation surprised everyone--the tax assessors, the accountants and especially us. Not only were we shocked to discover this new law but that we had paid once to adjust our homestead tax and now had to pay again. It was a lot of money and very hard to pay.

On February 7, 2006 we signed a Homeowner's Principal Residence Exemption Affidavit changing our principal residence from 28% to 84% and have been readjusted to the 16% non-homestead. I believe we are currently in compliance with the Treasury Department. Our biggest fear is that the Treasury Department will make another revision as is hinted at with the taxing of all common areas. This will further reduce our homestead tax percentage or perhaps lose it altogether. We must have protection from this. If not, there will be a great reduction of B&B's in Michigan. Is this really the goal? The bed and breakfast industry provides a wonderful means for tourists to visit and enjoy our beautiful state. Even more importantly, we generate a large tax base that is much needed in our current state. Take the B&B industry away and some much needed tax revenue will disappear.

We are in support of HB6030 and pray that this committee will decide in favor also.

Respectfully,

A handwritten signature in cursive script, reading "Jennifer Sue Field".

Jennifer Sue Field
Field of Dreams Bed and Breakfast
15627 Center Rd.
Traverse City, Mi 49686
231-223-7686
www.pentel.net/fieldofdreams